

REMARKS

Applicant requests reconsideration and allowance of the present application in view of the foregoing amendments and the following remarks.

Claims 1-13 are pending in the present application. Claims 1, 6 and 11-13 are the independent claims.

Claim 13 has been amended. No new matter has been added.

Initially, Applicants acknowledge with appreciation the indication that claims 1-10 and 12 are allowed. Applicants have not amended any of these claims and respectfully submit that they should remain allowed.

Claims 11 and 13 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. All rejections are respectfully traversed.

A rejection based on non-enablement should focus on those factors, reasons, and evidence that lead to the conclusion that the specification fails to teach how to make and use the claimed invention without undue experimentation. (The Manual of Patent Examining Procedure (MPEP), § 2164.04). Indeed, the test of enablement is not whether any experimentation is necessary, but whether, if experimentation is necessary, it is undue. It is for this reason that the specification preferably omits that which is well-known to those skilled and already available to the public. MPEP § 2164.05(a).

There are many factors to be considered when determining whether there is sufficient evidence to support a determination that a disclosure satisfies the enablement requirement and whether any necessary experimentation is "undue." These factors include, but are not limited to:

- (A) The breadth of the claims;
- (B) The nature of the invention;
- (C) The state of the prior art;
- (D) The level of one of ordinary skill;
- (E) The level of predictability in the art;
- (F) The amount of direction provided by the inventor;
- (G) The existence of working examples; and
- (H) The quantity of experimentation needed to make or use the invention based on the content of the disclosure.

MPEP § 2164.01(a).

Initially, it is noted that the Office has not addressed any of the aforementioned factors or how they support the Office's conclusion that claim 11 is not enabled. Further, Applicants submit that an analysis of the foregoing factors reveals that any experimentation necessary to use the claimed invention of claim 11 would not be undue. For example, it is submitted that at least factors (a) – (e) weight in favor of enablement.

Regarding claim 11, it is submitted that at least the majority of the aforementioned factors weigh in favor of the conclusion that one of ordinary skill in the art, on September 11, 2003, would have known or been able to ascertain without undue experimentation what a programmed computer processor was. Further, the Office Action's discussion of "acceptable language" for a claim is irrelevant to a proper analysis for compliance with the enablement requirement. Thus, it is submitted that claim 11 fully satisfies the enablement requirement of 35 U.S.C. § 112.

Accordingly, favorable reconsideration and withdrawal of the rejection of claim 11 under 35 U.S.C. § 112 are respectfully requested.

Regarding claim 13, this claim has been amended so as not to recite "the IEEE 802.11 wireless network standard."

Accordingly, favorable reconsideration and withdrawal of the rejection of claim 13 under 35 U.S.C. § 112 are respectfully requested.

In view of the foregoing, Applicant respectfully submits that the independent claims patentably define the present invention over the citations of record. Further, the dependent claims should also be allowable for the same reasons as their respective base claims and further due to the additional features that they recite. Separate and individual consideration of the dependent claims is respectfully requested.

Applicant believes that the present Amendment is responsive to each of the points raised by the Examiner in the Official Action. However, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to such matters.

There being no further outstanding objections or rejections, it is submitted that the present application is in condition for allowance. An early action to that effect is courteously solicited.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: 8-3-07

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